

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 8/28/2012	(3) CONTACT/PHONE Mark Davis, Development Services (805) 788-2452	
(4) SUBJECT Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by the City Church of the Central Coast. District 4.			
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board deny the appeal to waive or reduce the projects' Road Improvement Fee.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? No
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>15 mins.</u>) { } Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { } Ordinances {X} N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5th's Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY { } N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW <i>Nikki J. Schmidt</i>			
(18) SUPERVISOR DISTRICT(S) District 4 -			

Reference: 12AUG28-H-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
Mark Davis, Development Services

VIA: Dave Flynn, Deputy Director of Public Works

DATE: 8/28/2012

SUBJECT: Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by the City Church of the Central Coast. District 4.

RECOMMENDATION

It is our recommendation that your Honorable Board deny the appeal to waive or reduce the projects' Road Improvement Fee.

DISCUSSION

City Church of the Central Coast (Appellant) has applied for a building permit (PMT2011-01883) on a parcel zoned residential rural under their approved Conditional Use Permit and Development Plan (D010403D). The project includes constructing a 28,907-square foot two story church with atrium, multi-purpose rooms, day care, nursery, stage and an outdoor playground. The project site is located north of the community of Nipomo at 135 Cimarron Way near the intersection of Thompson Avenue and US 101 interchange (see Attachment "A"). The project is within the South County Road Improvement Fee Area 2 and is subject to pay an estimated road improvement fee of \$96,892 (see Attachment "B"). The Appellant has filed an appeal of the Road Improvement Fee.

The Conditional Use Permit and Development Plan (D010403D) allowing the development of the project parcel was approved by the Planning Commission on June 12, 2003. Condition of Approval No. 21 requires the payment of current South County Road fees when the building permit is issued.

On May 9, 2012, after initial review of the project building permit, Public Works sent out a letter to the Appellant notifying them of the current road improvement fee amount, the authority for requiring fee payment, and the appeal process. The May 9th letter incorrectly referenced the Templeton fee schedule and identified the project's Road Improvement Fee as \$108,034. This error has been corrected and the current project fee amount under consideration for appeal is \$96,892. The following provides a review of the basis under which your Board may adjust or waive fees (pursuant to County Code), and staff's evaluation of the appeal issues.

a. Basis for Adjustment or Waiver of the Fee

Section 13.01.050 of the San Luis Obispo County Code states that an adjustment or waiver of the fee may be granted, “*based on the absence of any reasonable relationship or nexus between the traffic-generating impacts of that new development, and either the amount of the fee imposed or the type of road facilities or improvements to be financed by the fee.*”

The South County Circulation Study establishes the reasonable relationship, or nexus, required for the imposition of fees within its study area. The most recent fee resolution was adopted by your Board on December 6, 2011, and the fees recommended in that update became effective February 2012. The Road Improvement Fee for South County Area 2 has remained unchanged from the previous two years.

All new developments or changes in use of existing development within the area will contribute to the need for road and other transportation improvements. The improvement program is designed to provide the necessary capacity on arterial and collector streets, to meet the County’s established level of service criteria. The Road Improvement Fee program was designed to apportion the cost of the needed improvements to all development, based on the amount of traffic generated. Waiving or reducing fees for individual projects results in obligating the County to make up any program shortfalls through other revenue.

b. Evaluation of Appeal Issues

In their appeal letter (provided as Attachment “C”) the Appellant raises the following comments, which are paraphrased below, along with staff’s response:

Appeal point 1: *We are a non-profit church that has been serving the County for 12-years with free public events and assistance with basic family needs.*

Response 1: The Road Fee Ordinance enumerates the criteria on which a waiver or adjustment of the fee may be based. Being a non-profit, tax exempt organization does not meet any of the criteria necessary to support a waiver or an adjustment of the fee. The County has applied fees on non-profit entities since the inception of the program.

Appeal point 2: *Our road impact is minimal as we meet on Sunday mornings on off-peak traffic hours.*

Response 2: The Road Improvement Fee is based upon the traffic-generating characteristics of the type of development as defined in the Institute of Transportation Engineering (ITE) Trip Generation Manual. The trip generation and resulting fee determination is based on weekday p.m. peak hour not the higher volume weekend traffic noted by the appellant. The proposed nursery, daycare, and office staff will generate these trips during weekly p.m. peak hour and represent an increase of traffic on the area roads. This forms the basis of the calculation of the Road Improvement Fee, and not just the traffic generated on Sunday mornings.

Appeal point 3: *We are located at the Los Berros exit and should not affect the Willow interchange.*

Response 3: The County's Willow Road extension project is being funded with South County Area 1 fees. The project is in the Area 2 fee program boundary. Future capital projects to be funded with South County Road Improvement Area 2 fees include the widening, striping and signalization improvements to the US 101 at Thompson Ave/Los Berros Road interchange, which is located adjacent to the project site. This particular project will also construct a left turn lane onto Cimarron Way for improved site access. Because the proposed building permit is for new development on an unimproved parcel all new developments that contribute to the need for road and transportation improvements are subject to the Road Improvement Fees. The Road Improvement Fees are utilized to fund improvements to the major arterial and collector streets within the respective fee areas and not the Willow interchange or other Area No. 1 improvements.

c. Prior History of South County Road Improvement Fee Area Appeals

Since 1991, there have been 32 road improvement fee appeals within the South County Road Improvement Fee Areas 1 and 2. Of these appeals, your Board adjusted or waived 10 fees resulting in a funding loss of \$159,298. The following table summarizes your Board's actions on each of these appeals:

Category	Number of Appeals	Board Action			RIF Losses
		Adjusted	Waived	Denied	
Church	2	1	1		\$22,591
Commercial	4	3	1		\$99,998
Industrial	1	1			\$7,162
Residential	25	3		22	\$29,547
Total	32	8	2	22	\$159,298

Prior Appeals – Similar Land Uses

There have been two appeals by churches in the South County Road Improvement Fee Areas as noted in the above table. The first was an appeal by First Baptist Church of Nipomo on July 20, 1999, where your Board made the finding that there would be no significant additional traffic because there was no actual change in the number of persons attending the existing onsite activities and upheld the appeal. A copy of the hearing minutes is provided as Attachment "D."

The second was an appeal on June 13, 2006, by Nipomo Community Presbyterian Church which is located approximately 800-feet southeasterly from the Appellant's project on Thompson Avenue. At that hearing, staff presented the Institute of Traffic Engineers (ITE) trip generation Code 560 used to estimate weekday afternoon peak hour trips associated with churches. Of the data points presented on the ITE Code 560 graph, two appeared so random that the Board asked staff to recalculate the trip generation factor by excluding those two data points. Based on the Board's direction, the ITE Code 560 adjusted from 0.55-peak hour trips per 1,000-square feet (0.55 PHT/ksf) to 0.48 PHT/ksf. Applying the revised trip generation rate, the Board adjusted the Road Improvement Fee but denied the appeal. A copy of the hearing minutes is provided as Attachment "E."

Since the June 13, 2006 hearing, staff has been applying the revised church trip generation factor of 0.48 PHT/ksf, and this reduced trip generation factor was also applied to this proposed project.

County wide there have been four road improvement fee appeals associated with churches. The results of two of those appeals are discussed above. The remaining two appeals were churches located in the Templeton Road Improvement Fee Areas and both appeals were denied by your Board.

OTHER AGENCY INVOLVEMENT/IMPACT

The Building Permit is being processed by the Department of Planning and Building.

FINANCIAL CONSIDERATIONS

The South County Circulation Study establishes a Capital Improvement Program identifying road improvements necessary to support new development. Supporting this appeal may result in substantial loss of road improvement fee revenues to fund future South County Area 2 projects identified in the 2011 Update including the Los Berros at US 101 interchange improvements, Los Berros Road widening and Halcyon Road and Highway 1 intersection improvements.

A fee of \$513 was paid by the appellant to process this appeal request. This fee is applied to compensate County staff for time spent preparing and presenting this item to the Board of Supervisors at public hearing.

RESULTS

The results of the recommended action before your Board today will be a determination that the amount charged to the Appellant is appropriate and consistent with applicable legal requirements and Board policy.

Reference: 12AUG28-H-1

File: Development Services

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ATTACHMENTS

1. Vicinity Map
2. South County Road Improvement Fee Areas
3. Appellant's Letter
4. Board Minutes from July 20, 1999 Appeal Hearing
5. Board Minutes from June 13, 2006 Appeal Hearing